

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. MARSHALS SERVICE N/TK
DALLAS, TEXAS
2016 NOV 17 AM 10:43

UNITED STATES OF AMERICA

v.

MITCHELL WESTON MILLER

NO. 3:16-CR-00332-N

PLEA AGREEMENT

Mitchell Weston Miller, (the defendant), Jerry W. Tidwell Jr., (the defendant's attorney), and the United States of America (the government), agree as follows:

1. **Rights of the defendant:** Miller understands that he has the rights:

- a. to plead not guilty;
- b. to have a trial by jury;
- c. to have his guilt proven beyond a reasonable doubt;
- d. to confront and cross-examine witnesses and to call witnesses in his defense; and
- e. against compelled self-incrimination.

2. **Waiver of rights and plea of guilty:** Miller waives these rights and pleads guilty to the offense alleged in Count One of the Indictment, charging a violation of 18 U.S.C. § 2252A(a)(1), that is, Transporting and Shipping Child Pornography. Miller understands the nature and elements of the crime to which he is pleading guilty, and agrees that the factual resume he has signed is true and will be submitted as evidence.

3. **Sentence:** The minimum and maximum penalties the Court can impose for Count One include:

- a. imprisonment for a period not less than five years and not to exceed 20 years;
- b. a fine not to exceed \$250,000, or twice any pecuniary gain to the defendant or loss to the victim(s);
- c. a term of supervised release, of any term of years or life, but not less than five years, which will follow any term of imprisonment. If Miller violates the conditions of supervised release, he could be imprisoned for the entire term of supervised release;
- d. a mandatory special assessment of \$100 and a mandatory special assessment of \$5,000 pursuant to 18 U.S.C. § 3014;
- e. restitution to victims or to the community, which is mandatory under the law, and which Mitchell agrees may include restitution arising from all relevant conduct, not limited to that arising from the offense of conviction alone;
- f. costs of incarceration and supervision; and
- g. forfeiture of property.

4. **Court's sentencing discretion and role of the Guidelines:** Miller understands that the sentence in this case will be imposed by the Court after consideration of the United States Sentencing Guidelines. The guidelines are not binding on the Court, but are advisory only. Miller has reviewed the guidelines with his attorney, but understands no one can predict with certainty the outcome of the Court's consideration of the guidelines in this case. Miller will not be allowed to withdraw his plea if his sentence is higher than expected. Miller fully

understands that the actual sentence imposed (so long as it is within the statutory maximum) is solely in the discretion of the Court.

5. Mandatory special assessment: Prior to sentencing, Miller agrees to pay to the U.S. District Clerk the amount of \$100.00, in satisfaction of the mandatory special assessment in this case. In addition, Miller agrees to pay to the U.S. District Clerk the amount of \$5,000.00, in satisfaction of the mandatory special assessment in this case pursuant to 18 U.S.C. § 3014(a)(3).

6. Defendant's agreement: Miller shall give complete and truthful information and/or testimony concerning his participation in the offense of conviction. Upon demand, Miller shall submit a personal financial statement under oath and submit to interviews by the government and the U.S. Probation Office regarding his capacity to satisfy any fines or restitution.

Miller expressly authorizes the United States Attorney's Office to immediately obtain a credit report on him in order to evaluate his ability to satisfy any financial obligation imposed by the Court. Miller fully understands that any financial obligation imposed by the Court, including a restitution order and/or the implementation of a fine, is due and payable immediately. In the event the Court imposes a schedule for payment of restitution, Miller agrees that such a schedule represents a minimum payment obligation and does not preclude the U.S. Attorney's Office from pursuing any other means by which to satisfy his full and immediately enforceable financial obligation. Miller understands that he has a

continuing obligation to pay in full as soon as possible any financial obligation imposed by the Court.

7. **Government's agreement:** The government will not bring any additional charges against Miller based upon the conduct underlying and related to Miller's plea of guilty. The government will dismiss any remaining Counts after sentencing is pronounced. The government will file a Supplement in this case, as is routinely done in every case, even though there may or may not be any additional terms. This agreement is limited to the United States Attorney's Office for the Northern District of Texas and does not bind any other federal, state, or local prosecuting authorities, nor does it prohibit any civil or administrative proceeding against Miller or any property.

8. **Forfeiture:** Miller further agrees not to contest, challenge, or appeal in any way the administrative or judicial (criminal or civil) forfeiture to the United States of any property seized or restrained by law enforcement officers during the investigation(s) related to this criminal cause, including: a ZTE N910 cellular telephone, with a 4GB micro memory card, and a ZTE N9520 cellular telephone, with a Toshiba 4GB micro SD card. Miller consents to entry of any orders or declarations of forfeiture regarding all such property and waives any requirements (including notice of forfeiture) set out in 19 U.S.C. §§ 1607-1609; 18 U.S.C. §§ 981, 983 and 985; the Code of Federal Regulations; and Rules 11 and 32.2 of the Federal Rules of Criminal Procedure. Miller agrees to provide truthful information and evidence necessary for the government to forfeit such property, to

include encryption passwords. Miller agrees to hold the government, its officers, agents, and employees harmless from any claims whatsoever in connection with the seizure, forfeiture, storage or disposal of such property.

9. **Violation of agreement:** Miller understands that if he violates any provision of this agreement, or if his guilty plea is vacated or withdrawn, the government will be free from any obligations of the agreement and free to prosecute Miller for all offenses of which it has knowledge. In such event, Miller waives any objections based upon delay in prosecution. If the plea is vacated or withdrawn for any reason other than a finding that it was involuntary, Miller also waives objection to the use against him of any information or statements he has provided to the government, and any resulting leads.

10. **Voluntary plea:** This plea of guilty is freely and voluntarily made and is not the result of force or threats, or of promises apart from those set forth in this plea agreement. There have been no guarantees or promises from anyone as to what sentence the Court will impose.

11. **Waiver of right to appeal or otherwise challenge sentence:** Miller waives his rights, conferred by 28 U.S.C. § 1291 and 18 U.S.C. § 3742, to appeal from his conviction and sentence. He further waives his right to contest his conviction and sentence in any collateral proceeding, including proceedings under 28 U.S.C. §§ 2241 and 2255. Miller, however, reserves the rights (a) to bring a direct appeal of (i) a sentence exceeding the statutory maximum punishment, or (ii)

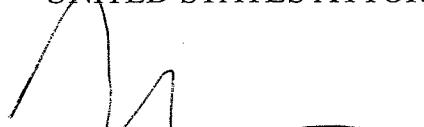
an arithmetic error at sentencing, (b) to challenge the voluntariness of his plea of guilty or this waiver, and (c) to bring a claim of ineffective assistance of counsel.

12. **Representation of counsel:** Miller has thoroughly reviewed all legal and factual aspects of this case with his lawyer and is fully satisfied with that lawyer's legal representation. Miller has received from his lawyer explanations satisfactory to him concerning each paragraph of this plea agreement, each of his rights affected by this agreement, and the alternatives available to him other than entering into this agreement. Because he concedes that he is guilty, and after conferring with his lawyer, Miller has concluded that it is in his best interest to enter into this plea agreement and all its terms, rather than to proceed to trial in this case.

13. **Entirety of agreement:** This document is a complete statement of the parties' agreement and may not be modified unless the modification is in writing and signed by all parties.

AGREED TO AND SIGNED this 21 day of November, 2016.

JOHN R. PARKER
UNITED STATES ATTORNEY


MARYA WILKERSON
Special Assistant United States Attorney
Tennessee State Bar No. 23Q91

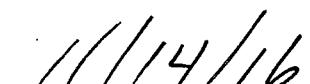

GARY TROMBLAY
Deputy Criminal Chief


MITCHELL WESTON MILLER
Defendant

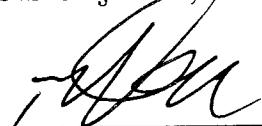

JERRY W. TIDWELL JR.
Attorney for the Defendant

I have read (or had read to me) this Plea Agreement and have carefully reviewed every part of it with my attorney. I fully understand it and voluntarily agree to it.

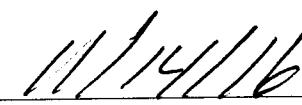

MITCHELL WESTON MILLER
Defendant


Date

I have been advised, and understand, that under the Sex Offender Registration and Notification Act, a federal law, I must register and keep the registration current in each of the following jurisdictions: where I reside; where I am an employee; and where I am a student. I understand that the requirements for registration include providing my name, my residence address, and the names and addresses of any places where I am or will be an employee or a student, among other information. I further understand that the requirement to keep the registration current includes informing at least one jurisdiction in which I reside, am an employee, or am a student not later than three business days after any change of my name, residence, employment, or student status. Also, I understand that I am required to provide information relating to intended travel outside the United States. I have been advised, and understand, that failure to comply with these obligations subjects me to prosecution for failure to register under federal law, 18 U.S.C. § 2250, which is punishable by a fine or imprisonment or both.



MITCHELL WESTON MILLER
Defendant

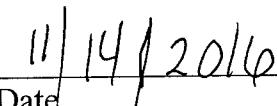


Date

I am the defendant's counsel. I have carefully reviewed every part of this Plea Agreement with the defendant. To my knowledge and belief, my client's decision to enter into this Plea Agreement is an informed and voluntary one.



JERRY W. TIDWELL JR.
Attorney for Defendant



Date